

December 8, 2006

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

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REPORT AND DECISION

SUBJECT: Department of Development and Environmental Services File No. **E0300140**

MAUREEN KAMIENSKI
Code Enforcement Appeal

Location: 15109 Cedar Falls Road Southeast, in the unincorporated North Bend area

Appellant: **Maureen Kamienski**
1439 Bendigo Boulevard North
North Bend, Washington 98045

King County: Department of Development and Environmental Services,
represented by **Holly Sawin**
900 Oakesdale Avenue Southwest
Renton, Washington 98055-1219
Telephone: (206) 296-6772
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SUMMARY OF DECISION/RECOMMENDATIONS:

Department's Preliminary Recommendation:	Deny appeal; with extended compliance schedule
Department's Final Recommendation:	Deny appeal; with extended compliance schedule
Examiner's Decision:	Deny appeal; with extended compliance schedule

EXAMINER PROCEEDINGS:

Hearing Opened:	November 16, 2006
Hearing Closed:	November 16, 2006

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes.
A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

FINDINGS, CONCLUSIONS & DECISION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS OF FACT:

1. On September 19, 2006, the King County Department of Development and Environmental Services (DDES) issued a Notice and Order to Maureen Kamienski that alleged a code violation at property identified as 15109 Cedar Falls Road Southeast in the unincorporated North Bend area. The property is approximately one-quarter acre in size and is zoned RA-2.5. The Notice and Order cited Ms. Kamienski and the property with one violation of County code:

- a) Placement of a mobile home without the required permits, inspections and approvals, citing the violated code sections.

Such violation was required by the Notice and Order to be corrected by application for and obtainment of the required permits, inspections and approvals, with a complete permit application to be submitted by November 22, 2006. If the permit application was denied, demolition and/or removal of the non-permitted mobile home was required to be accomplished within 60 days of permit denial. Alternatively, the mobile home could be removed from the premises, also by November 22, 2006.

2. Ms. Kamienski filed a timely appeal of the Notice and Order, which appeal does not contest the charge of violation directly but asserts that permit documents were misplaced and/or incorrectly submitted for the mid-1990's mobile home installation, and essentially requests additional time for completion of a septic system design for a conventional residence which Ms. Kamienski intends to construct to replace the mobile home. The septic design, which must be pre-approved by the Health Department, is a necessary component of a complete building permit application for the residence. The system is being designed to support the intended larger structure, which appears feasible. Ms. Kamienski desires to retain the mobile home onsite until the building permit is obtained for the conventional residence.
3. Ms. Kamienski testified that her mobile home installation contractor led her to believe that the proper permits had been obtained and that the mobile home was legally sited on the property. According to a DDES records search, no DDES permitting had been obtained for the mobile home (though Ms. Kamienski testified that the Health Department and the Fire District No. 38 Fire Marshal had approved it). DDES has made a *prima facie* case supporting the charge of violation with sufficient evidence and testimony presented to find that the charged violation occurred.
4. Ms. Kamienski has been diligent in her efforts to correct the lack of proper permitting and is making a good faith effort to obtain a suitable septic design that can gain Health Department approval and be submitted as part of a complete building permit application for the intended conventional residence. DDES testified that it was unaware of any sanitation or other hazard to life and safety or to the public welfare presented by temporary continued use of the existing mobile home and septic system.

CONCLUSIONS:

1. As noted, Appellant Kamienski makes no substantive disputation of the charge of violation, and essentially requests sufficient time to achieve the corrections required by the Notice and Order in her desired manner, which is to gain a building permit for a conventional residence to replace the

mobile home. In order to do that, she needs to obtain a septic system design (which is underway but subject to some delay due to her septic system designer's overloaded work schedule) and submit that along with the other necessary components of a complete permit application. DDES has concurred with a revised and extended compliance schedule, which is necessitated in part by the time taken up by the appeal, but also is stipulated by DDES as necessary in what appears to be a cooperative and diligent effort toward achieving compliance.

2. The charge of the Notice and Order has essentially been proven on a *prima facie* basis by the preponderance of the evidence in the record and the appeal shall accordingly be denied, except that the compliance schedule shall be revised as set forth below to reasonably accommodate the Appellant's desired approach toward achieving compliance by obtainment of a building permit for a replacement conventional residence.

DECISION:

The appeal is DENIED, except that the Notice and Order deadlines for compliance are revised as stated in the following order.

ORDER:

1. Apply for and obtain the necessary permits, inspections and approvals for the intended replacement conventional residence on the property, with a complete application to the submitted *by no later than April 30, 2007*. Meet all deadlines for requested information associated with the permit and obtain the permit within the required deadlines. The Department of Development and Environmental Services (DDES) may extend such deadline in its sole discretion if it concludes in writing that delay is reasonable and not due to the Appellant's lack of diligence in pursuing the required sanitation permit from the Health Department, or any other component of the requirements for a complete permit application. (The Appellant must use all reasonable diligence and discretion in ensuring that her selected sanitation system designer will be able to perform the necessary design work for reasonably timely submittal for Health Department approval in order to meet the above deadline. The Appellant is responsible for ensuring that the septic design is submitted in a reasonably prompt manner and if necessary should obtain alternate design services for timely completion.)
2. So long as the occupancy of the existing mobile home onsite is able to be conducted without a sanitation or other hazard to life and safety or to the public welfare, DDES may within its sole discretion permit the continued occupancy of the mobile home until the building permit for the proposed conventional residence is approved and obtained. Once the permit is obtained, the mobile home shall cease to be occupied for human habitation **within 30 days of the date of permit obtainment**, and **removed from the premises within 60 days of permit obtainment**.
3. Alternatively, a permit may be sought for retention of the mobile home on the premises, subject to the same deadlines established in no. 1 above for submittal of a complete application. If the application is denied, the same deadlines for cessation of human habitation occupancy and removal of the mobile home stated in no. 2 above shall pertain, except that the deadline periods shall run from the date of written application denial.

4. If the permit application for the replacement conventional residence is denied in writing in a final manner due to inability to obtain sanitation permit approval or other prohibitive regulatory or any other impediment, such as personal, technical or financial, the mobile home shall be removed in accord with the deadline schedule stated in no. 3 above.
5. No penalties shall be assessed against Maureen Kamienski and/or the property if the deadlines stated within the above conditions are met. If any pertinent deadline is not met, DDES may impose penalties against Ms. Kamienski and/or the property retroactive to the date of this order.

ORDERED December 8, 2006.

Peter T. Donahue
King County Hearing Examiner

TRANSMITTED December 8, 2006 via certified mail to the following:

Maureen Kamienski
1439 Bendigo Blvd. N.
North Bend WA 98045

TRANSMITTED December 8, 2006, to the following parties and interested persons of record:

Maureen Kamienski
1439 Bendigo Blvd. N.
North Bend WA 98045

Deidre Andrus
DDES/LUSD
MS OAK-DE-0100

Elizabeth Deraitus
DDES/LUSD
MS OAK-DE-0100

Jo Horvath
DDES/BSD
MS OAK-DE-0100

Lamar Reed
DDES/LUSD
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Holly Sawin
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Toya Williams
DDES/LUSD
MS OAK-DE-0100

NOTICE OF RIGHT TO APPEAL

Pursuant to Chapter 20.24, King County Code, the King County Council has directed that the Examiner make the final decision on behalf of the County regarding code enforcement appeals. The Examiner's decision shall be final and conclusive unless proceedings for review of the decision are properly commenced in Superior Court within twenty-one (21) days of issuance of the Examiner's decision. (The Land Use Petition Act defines the date on which a land use decision is issued by the Hearing Examiner as three days after a written decision is mailed.)

MINUTES OF THE NOVEMBER 16, 2006, 2006, PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. E0300140.

Peter T. Donahue was the Hearing Examiner in this matter. Participating in the hearing were Holly Sawin, representing the Department, and Maureen Kamienski, the Appellant.

The following Exhibits were offered and entered into the record:

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| Exhibit No. 1 | DDES staff report to the Hearing Examiner dated November 16, 2006 |
| Exhibit No. 2 | Copy of the Notice & Order issued September 19, 2006 |
| Exhibit No. 3 | Copy of Notice and Statement of Appeal dated October 1, 2006 |
| Exhibit No. 4 | Copies of codes cited in the Notice & Order |
| Exhibit No. 5 | Photographs (1 pg. color copies) of the subject property |
| Exhibit No. 6 | King County Department of Assessments records for parcel 222308-9051 |

PTD:ms

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